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HON. MARTIN J. JENKINS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VIOLET BLUE, an individual,

Plaintiffs,

vs.

ADA MAE JOHNSON aka ADA MAE
WOOFINDEN, an individual; VIOLET
BLUE, INC., a California corporation,

Defendants.

Case No.: C 07-5370 MJJ

**DECLARATION OF ROBERT S.
APGOOD IN SUPPORT OF
DEFENDANT WOOFINDEN'S
RESPONSE TO THE COURT'S
ORDER TO SHOW CAUSE**

COMES NOW, Robert S. Apgood, and upon his oath does declare and state
as follows:

1. I am at least 18 years of age, have personal knowledge of the matters
averred herein and, if called to testify, could and would testify to the matters
averred herein;

2. I am an attorney of record in the above-captioned matter for the
Defendant, Ada Woofinden;

3. On December 5, 2007, I was admitted *pro hac vice* to practice in this
court for the limited purpose of representing the defendant, Ada Woofinden;

4. At the time I filed my application for admission *pro hac vice*, I

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CAUSE - 1

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1 reviewed the Local Rules for the United States District Court, Northern District of
2 California;

3 5. I am admitted to practice in the Western District of Washington,
4 Eastern District of Washington, District of Colorado, Southern District of Indiana,
5 and Middle District of Florida;

6 6. I have been admitted to practice *pro hac vice* in the District of
7 Arizona and Central District of California;

8 7. Prior to this matter, I have never sought admission to, nor have I been
9 admitted to practice before the United States District Court, Northern District of
10 California;

11 8. By way of explanation, and not as excuse, in none of the districts
12 described in ¶¶ 5 – 6 have I been required to file notices of non-opposition to
13 motions that my clients do not intend to oppose. As such, that particular
14 requirement as a local rule is not a requirement for which I am habituated to look;

15 9. While I am sure that I read Local Rule LR 7-3(b) when I reviewed the
16 Local Rules for the Northern District of California, because it is a rule that is new
17 to me, that single-sentence rule did not make an impression on me that would bring
18 it to mind if my clients do not intend to oppose motions in the Northern District of
19 California;

20 10. On December 21, 2007, the plaintiff filed her MOTION for Leave to
21 File Amended Complaint with the court using the court's CM-ECF system;

22 11. At that time, I received notice of the filing and retrieved a copy of the
23 motion and accompanying exhibits;

24 12. After some discussion with my client, it was decided that the
25 plaintiff's motion was not one that the defendant intended to oppose;

26 13. Since the defendant did not intend to oppose the plaintiff's motion, the

1 course of conduct to which I am accustomed and habituated reasonably led me to
2 conclude that the motion would be granted automatically for non-opposition;

3 14. I did not, at any time, intend to show disrespect to this Honorable
4 Court, nor to the plaintiff or plaintiff's counsel;

5 15. I sincerely apologize to the court, the plaintiff and plaintiff's counsel
6 for any inconvenience or confusion that my inaction may have caused;

7 16. I take full responsibility for my inaction and respectfully request this
8 Honorable Court to not allow my oversight to prejudice the defendant, Ada
9 Woofinden;

10 17. I ensure that I shall hereafter be more diligent in scrutinizing and
11 conforming my conduct to the local rules.

12 I declare, under penalty of proof of perjury under the laws of the United
13 States of America that, to the best of my knowledge, the foregoing is true and
14 accurate.

15 FURTHER YOUR DECLARANT SAYETH NAUGHT.

16 DATED THIS 21st day of January 2008. Signed at Seattle, Washington.

17 Respectfully submitted,
18 CARPELAW PLLC

19 /s/ Robert S. Apgood
20 Robert S. Apgood, *Pro Hac Vice*
21 WSBA #31023
22 Attorney for Defendant Ada Mae Woofinden
23 CARPELAW PLLC
24 2400 NW 80th Street #130
25 Seattle, WA 98117-4449
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DECLARATION OF SERVICE

I, Robert S. Apgood, hereby make the following Declaration from personal knowledge that on January 21, 2008, I electronically filed the foregoing

1. Declaration of Robert S. Apgood in Support of Defendant Woofinden's Response to the Court's Order to Show Cause; and
2. this certificate of Service

with the Clerk of the Court using the CM/ECF system. In accordance with their ECF registration agreement and the court's rules, the Clerk of the Court will send e-mail notification of such filing to the following attorneys:

Collette Voge
Benjamin Costa
Vogele & Associates
580 California Street
Suite 1600
San Francisco, CA 94104

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

EXECUTED this 21st of January 2008 at Seattle, Washington.

CARPELAW PLLC

s/ Robert S. Apgood

WSBA # 31023

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